

**COUNCIL MEETING NOTICE and AGENDA
WEDNESDAY, DECEMBER 19, 2012
9:00 A.M. OR SOON THEREAFTER**

COUNCIL CHAMBERS
Historic County Building
4396 Rice Street, Suite 201
Lihu'e, Kaua'i, Hawai'i 96766

RECEIVED

A. MEETING CALLED TO ORDER.

'12 DEC 13 P4:51

B. ROLL CALL.

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

C. APPROVAL OF AGENDA.

D. MINUTES of the following meetings of the Council:

1. October 24, 2012 Council Meeting
2. November 14, 2012 Council Meeting
3. November 20, 2012 Council–Elect Organizational Meeting
4. November 28, 2012 Public Hearing re: Bill No. 2454, Bill No. 2455, Bill No. 2456, and Bill No. 2457
5. December 3, 2012 Inaugural Meeting

E. CONSENT CALENDAR:

1. C 2013-03 Communication (10/30/2012) from the Chief, Engineering Division, Department of Public Works, transmitting for Council approval, a Resolution repealing Resolution No. 54-91, Section IV, Item 80 and Section V, Item I and reestablishing a new speed limit of twenty miles per hour (20 MPH) along the entire length of Pu'u Ka'a Street and a portion of Ani Street, Kawaihau District, as requested by Mr. Pia Montgomery, with concurrence from the Engineering Division, Department of Public Works. *(See Resolution No. 2013-04)*
2. C 2013-04 Communication (11/07/2012) from the Chief, Engineering Division, Department of Public Works, transmitting for Council approval, a Resolution establishing a fifteen miles per hour (15 MPH) speed limit restriction along Lauoa Place, Meli Place, Kei Place and portions of Ani Street within the Pu'u Ka'a Subdivision, Kawaihau District, based on an engineering study and traffic investigation by the Engineering Division, Department of Public Works. *(See Resolution No. 2013-05)*

3. C 2013-05 Communication (11/15/2012) from the Chief, Engineering Division, Department of Public Works, transmitting for Council approval, a Resolution repealing Item 23, Section XIII, of Resolution No. 54-91 and establishing a new maximum speed limit of fifteen miles per hour (15 MPH) and twenty-five miles per hour (25 MPH) along portions of Lāwaʻi Road, Kōloa District, as requested by former Councilmember Dickie Chang, with concurrence from the Engineering Division, Department of Public Works. *(See Resolution No. 2013-06)*
4. C 2013-06 Communication (11/15/2012) from the Chief, Engineering Division, Department of Public Works, transmitting for Council approval, a Resolution establishing a “No-Parking At Any Time” Restriction along a portion of Poʻipū Road in the vicinity of the Kiahuna Plantation Resort, Marriott’s Waiohai Beach Club, and Koʻa Kea Hotel driveway entrance along Poʻipū Road, Kōloa District, as requested by Mr. Chris Gampon, General Manager, Outrigger Kiahuna Plantation Resort, with concurrence from the Engineering Division, Department of Public Works. *(See Resolution No. 2013-07)*
5. C 2013-07 Communication (11/19/2012) from the County Engineer, transmitting for Council approval, a Proposed Draft Bill for an Ordinance to comply with the provisions to amend Chapter 12 of the Kauaʻi County Code 1987 as amended, entitled “Building Code” Act 114 which encourages and supports diversified agriculture and agricultural self-sufficiency in the State by providing an exemption to building permit requirements for non-residential buildings or structures at commercial farms and ranches located outside the Urban District under certain conditions. *(See Proposed Draft Bill (No.2460))*
6. C 2013-08 Communication (11/21/2012) from the Mayor, transmitting for Council consideration, Mayoral appointee Sherman Tsuyoshi Shiraishi to the Board of Water Supply of the County of Kauaʻi – Term ending 12/13/2015. *(See Resolution No. 2013-08)*
7. C 2013-09 Communication (11/28/2012) from the County Engineer, transmitting for Council approval, a Resolution establishing crosswalks at the mid-block crossing on Umi Street approximately 280 feet north of the Umi Street and Rice Street intersection, and the west side of the Historic County Building driveway and Umi Street intersection, Līhuʻe District. *(See Resolution No. 2013-09)*

8. C 2013-10 Communication (11/28/2012) from the Planning Director, transmitting for Council consideration, the Planning Department's Planning Enforcement Account (Draft Bill No. 2439) Zoning Amendment ZA-2013-1, Relating To The County of Kaua'i Planning Department Civil Fines. *(Copies of Planning Department's Director's Report, supplement to the Director's Report, and Agency comments on file in the County Clerk's Office.) (See Proposed Draft Bill (No.2439))*
9. C 2013-11 Communication (11/30/2012) from the Planning Director, transmitting for Council consideration, the Planning Commission's recommended amendments to the Shoreline Setback Ordinance (Chapter 8, Article 27 of the Kaua'i County Code 1987, as amended). *(Copies of Planning Department's Director's Report, Supplement to the Director's Report, and Agency Comments on file in the County Clerks' Office). (See Proposed Draft Bill (No.2461))*
10. C 2013-12 Communication (12/11/2012) from Council Vice Chair Nakamura, transmitting for Council approval, a Resolution amending Resolution No. 2013-03, Relating to the Appointment of the Chairpersons, Vice Chairpersons, and Members of the Several Standing Committees of the Council of the County of Kaua'i. *(See Resolution No. 2013-10)*

F. COMMUNICATIONS:

1. C 2013-13 Communication (11/13/2012) from the Chief of Police, requesting Council approval to accept and expend a 2009 Edward Byrne Memorial Justice Assistance Grant in the amount of \$25,000.00 to be used to enhance the interface between the Juvenile Justice Information System (JJIS) and the new Visionair Record Management System (RMS), and to indemnify the State of Hawai'i, Department of the Attorney General.
2. C 2013-14 Communication (11/16/2012) from the Salary Commission, transmitting pursuant to Section No. 29.03, Kaua'i County Charter, Resolution No. 2012-3, Resolution Amending Resolution 2012-1, Relating to the Salaries of Certain Officers and Employees of The County Of Kaua'i, adopted by the Salary Commission on November 16, 2012.

3. C 2013-15 Communication (11/23/2012) from Council Chair Furfaro, requesting the presence of the Chief of Police to provide a presentation on the status of the Kaua'i Police Department's recruitment efforts.
4. C 2013-16 Communication (11/23/2012) from the Environmental Services Management Engineer, Department of Public Works, requesting Council support and appropriate action to preserve the State's annual allocation of Deposit Beverage Container (DBC) funding to the County of Kaua'i.
5. C 2013-17 Communication (11/30/2012) from the Housing Director, requesting Council approval to decline the County's option to repurchase Unit No. 84, Villas at Puali, located at 1928 Hokulei Place, Lihu'e, Hawai'i, 96766, and to grant the owner a one-year waiver of the buyback and allow the market sale of the unit.
6. C 2013-18 Communication (11/30/2012) from the Director of Economic Development, requesting Council approval to accept one-year of free trial service of UtilityTrac Plus Software from the software company "Facility Dude," a NACo Green Government Initiative Partner, valued at \$10,605.00 which will assist the County of Kaua'i with tracking, managing, and analyzing utility data across County facilities.
7. C 2013-19 Communication (12/04/2012) from Council Chair Furfaro, requesting the presence of the Director of Parks & Recreation to discuss the maintenance and policy of County Cemeteries, and any proposals for utilizing voluntary community support to provide periodic upkeep of the County Cemeteries.
8. C 2013-20 Communication (12/11/2012) from Councilmember Rapozo, requesting the presence of the County Engineer, to provide an update and report regarding the recent delay in construction of the Multi-Use Path along Papaloa Road, including the circumstances causing the delay, the corrective measures taken, and the costs associated with the delay and the corrective measures undertaken to correct any deficiencies. This briefing should also include the current timeline for completion of this portion of the Multi-Use Path.

9. C 2013-21 Communication (12/12/12) from Council Chair Furfaro, transmitting for Council approval the following representatives for the respective organizations for the Fiscal Year 2012-2013:
- Hawai'i State Association of Counties (HSAC)
 - Mel Rapozo – Representative
 - Ross Kagawa – Alternate
 - National Association of Counties (NACo) Board of Director
 - Gary L. Hooser – Representative
 - Western Interstate Region (WIR) Board of Director
 - Mel Rapozo – Representative
10. C 2013-22 Communication (12/12/12) from the Department of Public Works, requesting Council approval to purchase four (4) replacement Air Conditioning (AC) units at an estimated cost of \$6,000.00 each, for a total of \$24,000.00, which are located at the Kekaha Landfill scalehouse and employee facility. The replacement units will be funded from anticipated savings within the Solid Waste Operating Budget.

G. LEGAL DOCUMENTS:

1. C 2012-385 Communication (08/28/2012) from the Civil Defense Manager, recommending Council approval of the second amendment to the five (5) year license agreement between the County of Kaua'i and Bank of Hawai'i, Trustee of the Kukuilono Park Trust Estate, extending the County's license for the 800 MHz radio site located at Kukuilono Park in Kalāheo, Kaua'i, Hawai'i, for emergency radio communications for the County of Kaua'i, which license fee will be paid in incremental increases of three percent (3%) each year for the five (5) year period commencing July 1, 2012.
- Second Amendment of License Agreement
(*Deferred 11/28/2012*)

H. CLAIMS:

1. C 2013-23 Communication (12/05/2012) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by State Farm Insurance Company, as a subrogee of Ann Kennedy for property damage to their vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

2. C 2013-24 Communication (12/06/2012) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Stuart Spielman for property damage and for services rendered, pursuant to Section 23.06, Charter of the County of Kaua'i.

I. COMMITTEE REPORTS:

1. PUBLIC WORKS / PARKS & RECREATION COMMITTEE:

- a. **CR-PWPR 2013-01:** on PWPR 2013-01 Communication (08/28/2012) from the Council Chair, requesting the presence of the County Engineer and the Director of Parks & Recreation, to provide an update on the status of the leaking roof, floor damage, and building maintenance, along with an update on the progress being made with the consultant procured to assist in the evaluation of the issues dealing with Kilauea Gym. **[Received for the Record.]**

2. FINANCE & ECONOMIC DEVELOPMENT (TOURISM / VISITOR INDUSTRY / SMALL BUSINESS DEVELOPMENT / SPORTS & RECREATION DEVELOPMENT / OTHER ECONOMIC DEVELOPMENT AREAS) COMMITTEE:

- a. **CR-FED 2013-01:** on Bill No. 2444 A BILL FOR AN ORDINANCE AMENDING SECTION 5A-6.3, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*Cost Control Commission Recommendation - Minimum Real Property Tax*) **[Received for the Record.]**

3. COMMITTEE OF THE WHOLE:

- a. **CR-COW 2013-01:** on Bill No. 2454 AN ORDINANCE AMENDING ORDINANCE NO. B-2012-737, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2012 THROUGH JUNE 30, 2013, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND-CIP (FEMA Reimbursement) **[Approved.]**

- b. CR-COW 2013-02:** on Bill No. 2455 AN ORDINANCE AMENDING ORDINANCE NO. B-2012-736, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2012 THROUGH JUNE 30, 2013, BY REVISING AMOUNTS ESTIMATED IN THE GENERAL FUND (FEMA Reimbursement) **[Approved.]**
- c. CR-COW 2013-03:** on Bill No. 2456 AN ORDINANCE AMENDING ORDINANCE NO. B-2012-736, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2012 THROUGH JUNE 30, 2013, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (\$31,000.00 Teen Court Grant) **[Received for the Record.]**

J. RESOLUTIONS:

1. Resolution No. 2012-61, RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE FIRE COMMISSION (*Harold Daniel Brown*) **(Deferred 11/28/2012)**
2. Resolution No. 2013-04, RESOLUTION REPEALING ITEM EIGHTY (80), SECTION IV, OF RESOLUTION NO. 54-91, RELATING TO THE TWENTY-FIVE MILES PER HOUR (25 MPH) SPEED LIMIT ON PU'U KA'A STREET, AND ITEM ONE (1), SECTION V, OF RESOLUTION NO. 54-91, RELATING TO THE TWENTY MILES PER HOUR (20 MPH) SPEED LIMIT ON ANI STREET, AND ESTABLISHING A NEW MAXIMUM SPEED LIMIT OF TWENTY MILES PER HOUR (20 MPH) ALONG THE ENTIRE LENGTH OF PU'U KA'A STREET AND A PORTION OF ANI STREET, KAWAIHAU DISTRICT, COUNTY OF KAUAI, STATE OF HAWAII
3. Resolution No. 2013-05, RESOLUTION ESTABLISHING SPEED LIMITS ALONG LAULOA PLACE, MELI PLACE, KEI PLACE AND ALONG PORTIONS OF ANI STREET, PU'U KA'A SUBDIVISION, KAWAIHAU DISTRICT, COUNTY OF KAUAI

4. Resolution No. 2013-06, RESOLUTION REPEALING ITEM TWENTY-THREE (23), SECTION XIII, OF RESOLUTION NO. 54-91, RELATING TO THE MAXIMUM SPEED LIMIT OF TWENTY-FIVE MILES PER HOUR (25 MPH) ON LĀWA'I ROAD, AND ESTABLISHING NEW MAXIMUM SPEED LIMITS OF FIFTEEN MILES PER HOUR (15 MPH) AND TWENTY-FIVE MILES PER HOUR (25 MPH) ALONG PORTIONS OF LĀWA'I ROAD, KŌLOA DISTRICT

5. Resolution No. 2013-07, RESOLUTION ESTABLISHING NO-PARKING AT ANY TIME ALONG A PORTION OF PO'IPŪ ROAD IN THE VICINITY OF THE DRIVEWAY ENTRANCE TO THE KIAHUNA PLANTATION RESORT, MARRIOTT'S WAI OHAI BEACH CLUB, AND KO'A KEA HOTEL, KŌLOA DISTRICT

6. Resolution No. 2013-08, RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE BOARD OF WATER SUPPLY (*Sherman Tsuyoshi Shiraishi*)

7. Resolution No. 2013-09, RESOLUTION ESTABLISHING CROSSWALKS ON UMI STREET, LĪHU'E DISTRICT, COUNTY OF KAUAI

8. Resolution No. 2013-10, RESOLUTION AMENDING RESOLUTION NO. 2013-03, RELATING TO THE APPOINTMENT OF THE CHAIRPERSONS, VICE CHAIRPERSONS, AND MEMBERS OF THE SEVERAL STANDING COMMITTEES OF THE COUNCIL OF THE COUNTY OF KAUAI

K. BILLS FOR FIRST READING:

1. Proposed Draft Bill (No. 2439) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COUNTY OF KAUAI PLANNING DEPARTMENT CIVIL FINES (*7/11/2012 Referred to the Planning Commission for recommendation*)

2. Proposed Draft Bill (No. 2460) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 12, OF THE KAUAI COUNTY CODE 1987, AS AMENDED, ENTITLED "BUILDING CODE"

3. Proposed Draft Bill (No. 2461) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE (*Amendments to the Shoreline Setback Ordinance*)

L. BILLS FOR SECOND READING:

1. Bill No. 2452 – AN ORDINANCE ADDING A NEW SECTION TO ARTICLE 1, CHAPTER 19 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO PARKS AND RECREATION (Prohibiting Fishing at Lydgate Beach Park Pond) *(See also CR-FPP 2012-14; The Finance / Parks & Recreation / Public Works Programs Committee recommended approval on second and final reading.) (Deferred 11/28/2012)*

2. Bill No. 2444 A BILL FOR AN ORDINANCE AMENDING SECTION 5A-6.3, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX *(Cost Control Commission Recommendation – Minimum Real Property Tax) (See also CR-FED 2013-01; The Finance & Economic Development(Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee recommended receipt on second and final reading.)*

3. Bill No. 2454 AN ORDINANCE AMENDING ORDINANCE NO. B-2012-737, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2012 THROUGH JUNE 30, 2013, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND – CIP (FEMA Reimbursement) *(See also CR-COW 2013-01; The Committee of the Whole recommended approval on second and final reading.)*

4. Bill No. 2455 AN ORDINANCE AMENDING ORDINANCE NO. B-2012-736, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2012 THROUGH JUNE 30, 2013, BY REVISING AMOUNTS ESTIMATED IN THE GENERAL FUND (FEMA Reimbursement) *(See also CR-COW 2013-02; The Committee of the Whole recommended approval on second and final reading.)*

5. Bill No. 2456 AN ORDINANCE AMENDING ORDINANCE NO. B-2012-736, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2012 THROUGH JUNE 30, 2013, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (\$31,000.00 Teen Court Grant) *(See also CR-COW 2013-03; The Committee of the Whole recommended receipt on second and final reading.)*

M. EXECUTIVE SESSION: Pursuant to Haw. Rev. Stat. ("H.R.S.") §92-7(a), the Council may, when deemed necessary, hold an executive session on any agenda item without written public notice if the executive session was not anticipated in advance. Any such executive session shall be held pursuant to H.R.S. §92-4 and shall be limited to those items described in H.R.S. §92-5(a). (Confidential reports on file in the County Attorney's Office and/or the County Clerk's Office. Discussions held in Executive Session are closed to the public.)

1. ES-588 Pursuant to Hawai'i Revised Statutes Sections 92-4, 92-5(a)(4) and (6), and Kaua'i County Charter Section 3.07(e), the Office of the County Attorney, on behalf of the Council, requests an executive session to allow the Council to consult with the County Attorney regarding C 2012-385, Communication (08/28/2012) from the Civil Defense Manager, recommending Council approval for the second amendment, five (5) year lease agreement between the County of Kaua'i and Bank of Hawai'i, Trustee of the Kukuilono Park Trust Estate, which extends the lease of the County's 800 MHz radio site located at Kukuilono Park in Kalāheo, Kaua'i, Hawai'i, for emergency radio communications for the County of Kaua'i, for the five (5) year period commencing July 1, 2012, and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item. (Deferred 11/28/2012)

N. ADJOURNMENT.

- O. PUBLIC HEARING NOTE: If the Council is not finished with this meeting by approximately 1:30 p.m., it will recess for public hearings on the following. After the public hearings, the Council will reconvene to complete any unfinished business.

[*For complete information, including a summary of the item, please refer to the official Notice of Public Hearing. The official Notice of Public Hearing has been published, posted on the bulletin board, and filed in the County Clerk's Office as required by law. Notwithstanding this Council Agenda, the Council may hold a public hearing on any item which has been posted in advance in compliance with the Sunshine Law.] For a copy of the notice, please go to: <http://www.kauai.gov/Government/CountyCouncil/CouncilAgendasandPublicHearingNotices/tabid/73/Default.aspx>

1. Bill No. 2458 – A BILL FOR AN ORDINANCE AMENDING SECTION 19-1.4 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO PARKS AND RECREATION (General Prohibitions Applicable To All Parks And Recreation Facilities)

P. NOTE: SPECIAL ACCOMMODATIONS AND SIGN LANGUAGE INTERPRETER AND INTERPRETERS FOR NON-ENGLISH SPEAKING PERSONS ARE AVAILABLE UPON REQUEST FIVE (5) DAYS PRIOR TO THE MEETING DATE, TO THE COUNTY CLERK, 4396 RICE STREET, SUITE 209, LIHU'E, KAUAI. TELEPHONE NO. (808) 241-4188. FAX NO. (808) 241-6349.